

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

UNITED STATES OF AMERICA,

v.

Case No. 2:18-cr-89-FtM-60NPM

WILLIAM NOBLES,

Defendant.

**ORDER DENYING IN PART, AND RESERVING RULING IN PART,
ON DEFENDANT’S “MOTION TO SUPPRESS EVIDENCE”**

This matter is before the Court on Defendant’s “Motion to Suppress Evidence,” filed by counsel on September 14, 2018. (Doc. # 23). On September 28, 2018, the United States of America filed a response in opposition to the motion. (Doc. # 26). The Court reserved ruling on the motion until after the Eleventh Circuit decided *United States v. Taylor*, No. 17-14915, 2019 WL 4047512 (11th Cir. Aug. 28, 2019).¹ (Doc. # 41). After reviewing the motion, response, court file, and the record, the Court finds as follows:

In his motion, Defendant argues that the evidence against him should be suppressed, raising three issues: (1) the NIT warrant was invalid because the magistrate judge in Virginia did not possess the authority to issue the warrant; (2) the Labelle warrant was illegal because there was not sufficient probable cause to support the issuance of the search warrant; and (3) Defendant was interrogated in violation of *Miranda v. Arizona*, 384 U.S. 436 (1966). In this Order, the Court addresses Defendant’s first two arguments but reserves ruling on the third issue.

¹ The Court notes that the Honorable Sheri Polster Chappell held a hearing on the motion to suppress on November 7, 2018.

NIT Warrant

In his motion, Defendant argues that the government's search of his computer through the deployment of a "network investigative technique" (NIT) constituted an illegal search because the Virginia magistrate judge did not possess the authority under Rule 41(b) to issue the NIT warrant and permit a search of Defendant's computer located in Florida. Because the NIT warrant is invalid, Defendant argues that all evidence should be suppressed, including computers, computer discs, thumb-drives, digital images, and Defendant's statements.

Upon review, based upon the undisputed facts, the Court finds that suppression is not warranted because the good-faith exception to the exclusionary rule is applicable in this case. The Eleventh Circuit has held that although a magistrate judge lacks the authority to issue the NIT warrant, the evidence should not be excluded where the police officers acted in good-faith reliance upon the issuance of the NIT warrant.² *See Taylor*, 2019 WL 4047512, at *10-11; *United States v. Caswell*, No. 18-11211, 2019 WL 4447325, at *1-2 (11th Cir. Sept. 17, 2019). Similarly, in this case, the police officers followed the law in effect at the time and acted in good faith when relying upon the issuance of the NIT warrant. Specifically, "[t]he officers did what we would hope and expect – they fully disclosed the mechanics of the intended search, left the constitutional call to the magistrate judge, and acted in reasonable reliance on the resulting warrant." *See Taylor*, 2019 WL 4047512, at *11; *see also* (Doc. ## 23-3 and 26-1). Because the violation does not trigger the exclusionary rule if the government

² Every appellate court addressing the constitutionality of the NIT warrant has reached the same conclusion – "that evidence discovered under the NIT warrant need not be suppressed." *Taylor*, 2019 WL 4047512, at *2.

acted in objectively reasonable good faith, no relief is warranted upon Defendant's motion. Consequently, Defendant's request to suppress evidence resulting from the NIT warrant is denied.

Labelle Warrant

In his motion, Defendant argues that the evidence should also be suppressed because the Labelle warrant was not supported by sufficient probable cause to support the issuance of a search warrant. As the Supreme Court has explained, when issuing a search warrant, "the task of the . . . magistrate is simply to make a practical, common-sense decision whether, given all the circumstances set forth in the affidavit before him . . . there is a fair probability that contraband or evidence of a crime will be found in a particular place." *Illinois v. Gates*, 462 U.S. 213, 238 (1983). Furthermore, "the duty of a reviewing court is simply to ensure that the magistrate had a substantial basis for concluding that probable cause existed." *Id.* (internal quotation omitted). Consequently, "[a] magistrate's determination of probable cause should be paid great deference by reviewing courts." *Id.* at 236 (internal quotation omitted). Moreover, a reviewing court should not invalidate a search warrant by interpreting affidavits "in a hypertechnical, rather than a commonsense, manner." *Id.*

Reviewing the Labelle warrant and supporting affidavit – and giving due deference to the determination of the magistrate judge – the Court finds that there was sufficient probable cause to support the issuance of the search warrant. *See* (Doc. ## 23-2 and 26-2). Additionally, even if probable cause was lacking, the Court notes that evidence seized pursuant to a warrant may be admitted where the "affidavit was made in good faith, the warrant was issued by a detached and neutral magistrate, and

the warrant was reasonably relied on in good faith by the police officers.” *United States v. Richardson*, 861 F.2d 291, 294 (D.C. Cir. 1988) (citing *United States v. Leon*, 468 U.S. 897 (1984)). There does not appear to be any actual factual dispute as to these issues. Accordingly, even if the Court were to find that there was not sufficient probable cause to support the issuance of the Labelle warrant, the evidence should not be excluded due to the good faith exception to the exclusionary rule.

It is therefore **ORDERED, ADJUDGED, and DECREED:**

1. Defendant’s “Motion to Suppress Evidence” is hereby **DENIED IN PART**, as set forth in this Order.
2. The Court **RESERVES RULING** on whether Defendant was interrogated in violation of *Miranda v. Arizona*.

DONE and ORDERED in Chambers, in Fort Myers, Florida this 20th day of September, 2019.



TOM BARBER
UNITED STATES DISTRICT JUDGE